

49 CFR Part 173**[Docket No. HM-166K, Amdt. No. 54]****Transportation of Anhydrous Ammonia in Intrastate Commerce****AGENCY:** Materials Transportation Bureau, DOT.**ACTION:** Final rule.

SUMMARY: This rule amends the Department's Hazardous Materials Regulations to allow the continued use in intrastate service of certain cargo tanks for the carriage of anhydrous ammonia in States where this practice was permitted until the Hazardous Materials Regulations were extended to cover both interstate and intrastate transportation of certain materials, including anhydrous ammonia, and prohibited such practice.

This is not a major rule. It is supported by the majority of the persons who submitted comments on the notice of proposed rulemaking. It is designed to rectify a situation which would cause hardship in the agricultural community and the industries which serve it.

EFFECTIVE DATE: This amendment is effective April 19, 1982. However, compliance with the regulations as amended herein is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street SW., Washington, D.C. 20590, telephone number (202) 426-2075.

SUPPLEMENTARY INFORMATION: On Thursday, September 24, 1981, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket No. HM-166K, Notice No. 81-7 [48 FR 47099], which proposed to amend the Hazardous Materials Regulations (HMR) to allow the continued use of certain specification and nonspecification cargo tanks in intrastate anhydrous ammonia service in States which historically have permitted, or never prohibited, the use of these cargo tanks for that service.

The Notice was based in part on a petition from the fertilizer industry to allow the continued use of these cargo tanks in order to avoid hardship both to farmers using anhydrous ammonia for

fertilizer and the fertilizer industry. Comments on the Notice were solicited with a closing date of November 23, 1981.

A total of eleven comments were received, ten from private individuals or companies and one from the Pennsylvania Department of Transportation (Pennsylvania DOT). Based on the comments received, the proposals in the Notice, with one revision, are being incorporated as amendments to the HMR. The following is a summary of the comments received on the Notice.

Of the ten comments received from individuals or companies, nine requested that the amendments proposed in the Notice be adopted. None of these comments went into detail on the proposed amendments or recommended any changes to them. All of these comments stressed the hardship that would fall on the agricultural community and the fertilizer industry which services it if the amendments were not adopted. The tenth commenter protested the elimination of the use of State approved cargo tanks in the first place.

The Pennsylvania DOT concurred in part in the amendments proposed in the Notice. However, they recommend that documentation be required to be carried on each vehicle to establish the fact that the vehicle had complied with the requirements contained in the proposed amendment. Reasons cited by the Pennsylvania DOT for such documentation were to make enforcement of the HMR by State authorities easier and to prevent unnecessary disruption of service by enforcement officials. While MTB recognizes that a requirement for the documentation suggested by the Pennsylvania DOT would somewhat ease the enforcement burden of both State and Federal enforcement personnel, this benefit is outweighed by the recordkeeping burden placed on the carrier to maintain a copy of these documents in each vehicle at all times. It is the policy of the Federal government to reduce, not add to the paperwork burden of the regulated community. However, if the carrier elects to carry this documentation with the vehicle, it may facilitate inspections and prevent delays by enforcement officials.

As stated in the summary of the Notice it was the intention of the proposal to authorize the use of specification and nonspecification cargo tanks with a design service pressure of 250 psig in the carriage of anhydrous ammonia in intrastate service. However, due to oversight, the proposed change

dealt only with nonspecification cargo tanks. Cargo tanks built to Specification MC-330 or MC-331 with a design service pressure of 250 psig were omitted from the proposed rule change. This omission has been corrected by including Specification MC-330 and MC-331 cargo tanks in Note 17.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

1. In § 173.315 a new note, Note 17, is added to the Table in § 173.315(a)(1) and the entry for "Anhydrous ammonia" is revised. The note is referenced in the first column and the last two columns of the Table (with headings of "Type" and

"Minimum design pressure," respectively) for the first material entry: "Anhydrous ammonia."

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

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(a) * * *

(1) * * *

TABLE

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
Anhydrous ammonia (see Notes 14 and 17 and paragraph (1) of this section).	56	82; see Note 5.	DOT-51, MC-330, MC-331; see Notes 12 and 17.	265; see Note 17.

Note 17.—A Specification MC-330 or MC-331 cargo tank or a nonspecification cargo tank meeting, and marked in conformance with, the edition of the ASME Code in effect when it was fabricated, may be used for the transportation of anhydrous ammonia if it—

- (1) Has a minimum design pressure not lower than 250 psig;
- (2) Was manufactured in conformance with the ASME Code prior to January 1, 1981, according to its ASME name plate and manufacturer's data report;
- (3) Is painted white or aluminum;
- (4) Complies with Note 12 of this paragraph;
- (5) Has been inspected and tested in accordance with § 173.33 as specified for Specification MC-330 or MC-331;
- (6) Was used to transport anhydrous ammonia prior to January 1, 1981;
- (7) Is operated exclusively in intrastate commerce (including its operation by a motor carrier otherwise engaged in interstate commerce) in a state where its operation was permitted by the laws of that State (not including the incorporation of this subchapter) prior to January 1, 1981; and
- (8) Is operated in conformance with all other requirements of this subchapter.

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, Appendix A to Part 1).)

Note.—The Materials Transportation Bureau has determined that this document is not a "major rule" under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the Docket. I certify that this Amendment will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,
Director, Materials Transportation Bureau.

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